IN THE HIGH COURT OF UTTARANCHAL
AT NAINITAL
Cr. Misc. Application No. 772/05

1 Kuldeep son of Tejpal
2 Pinki s/o Mahendra
3 Sannoj s/o Rajpal
4 Arjun son of Nakali Ram
5 Monu son of Rola Singh
6 Babloo son of Man Singh
All resident of village Sunhati
Alapur. Police Station Jhabrera
District Haridwar Applicants

Versus

1. Civil Judge (JD) Haridwar)
2 Sri Nakli Ram s/o Punna Singh
R/o Sunheti Alapur
PS Jhabrera, District Haridwar

Opposite parties.

Hon'ble B.C. Kandpal, J.

This petition under Section 482 Cr.P.C has been filed by the petitioners for quashing the further proceedings in Criminal Case No 150 of 2005 State vs Kuldeep and others under Sections 147,148,149,323,506, IPC and under Section 3(1) (10) SC/ST Act pending in the court of Civil Judge (JD) Roorkee (Haridwar).

Brief facts giving rise to this petition are that opposite party No.2 Nakli Ram lodged a First Information Report against the petitioners under Sections 147,148,149,323,506,356 IPC.

The police investigated the case and submitted the charge sheet against the petitioners under Section 147,148,149,323, 506, IPC and under Section 3(1) 10 SC/ST Act.

After the filing of the charge sheet the learned court below summoned the petitioners vide order dated 15.9.2005.

The petitioners have therefore filed this petition for quashing the entire criminal proceedings.

Heard Sh. Anuj Kr.Singh, learned counsel for the petitioners, learned AGA and perused the record.

The learned counsel for the petitioners has argued that from the entire evidence collected by the Investigating Officer no prima facie case is made out against the petitioners and the proceedings against the petitioners is gross abuse of process of law.

I do not find any force in the arguments advanced by the learned counsel for the petitioners.

The First Information Report as well as other documents available on record clearly make out a prima facie case at this stage. It was not desirable for the Magistrate to go in detail and to consider the evidence meticulously at the time of passing the summoning order.

The contention raised by the learned counsel for the petitioners relates to the factual aspect of the matter and can be assessed and examined by the trial court . This court is not to embark upon the inquiry as to the reliability of evidence and sustainability of the accusation on a reasonable appreciation of evidence.

At this stage while exercising the power under Section 482 Cr.PC I am not supposed to deliver any premature decision in the case where the evidence is yet to be assessed and examined by the trial court . I also do not find any flagrant injustice or abuse of the process of court in this case.

The petition under Section 482 Cr.P.C. lacks merit and the same is liable to be dismissed.

Accordingly the petition is dismissed.

(B.C. Kandpal, J.)

9.11.2005
NBJ